

Exhibit “H”

ws081705 (2).ASC

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE
3 * * *
4 WAYNE VAN SCOY :
5 VS. : C.A. NO. 05-108-KAJ
6 VAN SCOY DIAMOND MINE OF :
7 DELAWARE, INC., KURT VAN SCOY :
 and DONNA VAN SCOY :

8 * * *
9 AUGUST 17, 2005

10 * * *
11 PORTIONS OF THIS TRANSCRIPT CONTAIN CONFIDENTIAL
12 INFORMATION

13 * * *
14 Videotape deposition of WAYNE VAN SCOY,
15 taken pursuant to notice, was held at the law
16 offices of FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP,
17 2000 Market Street, 10th Floor, Philadelphia,
18 Pennsylvania 19103-3291, beginning at 10:11 a.m.,
19 before McKinley Wise, a Registered Professional
20 Reporter and an approved Reporter of the United
21 States District Court.

22 ESQUIRE DEPOSITION SERVICES
23 1880 John F. Kennedy Boulevard
 15th Floor
24 Philadelphia, Pennsylvania 19103
 (215) 988-9191

ESQUIRE DEPOSITION SERVICES

ws081705 (2).ASC
18 Q. When was the first time?

19 A. Had to be -- let's see. I was using
20 it in '96, '98. Since 2001, whenever we might
21 have made phone conversations of my parents'
22 health and stuff.

23 Q. When was the first time?

24 A. 2001.

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

117

1 Q. Did you ever tell him that before
2 you owned the mark?

3 A. He was aware. I probably did during
4 the bankruptcy, how Rick and I have to take the
5 sign down and stuff. I didn't say, You had to
6 pay, because, you know, I can't make him pay for
7 it. I don't own it.

8 Q. How about when your father owned the
9 mark?

10 A. Did I? No. I don't -- not that I
11 recall.

12 Q. When did you first realize that Kurt
13 Van Scoy was running a jewelry store under the
14 name Van Scoy Diamond Mine --

15 A. Ninety --

16 Q. -- in Newark, Delaware?

17 A. '96 I saw the sign.

18 Q. You were there personally --

Ws081705 (2).ASC

- 19 A. Yes.
- 20 Q. -- in 1996?
- 21 A. Yes.
- 22 Q. At the store?
- 23 A. Yes.
- 24 Q. And to your knowledge, did he

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

118

- 1 continue to run that store after that?
- 2 A. '98, when I went back down or for
- 3 checkups possibly when I went down with my dad and
- 4 mom to get checked up, drove past, saw it. And
- 5 then for sure I was down there in '98 again
- 6 because of my father's surgeries.
- 7 Q. And you saw the store?
- 8 A. Yes.
- 9 Q. And you saw the sign?
- 10 A. Yes.
- 11 Q. And what did the sign say?
- 12 A. "Van Scoy's Diamond Mine." I
- 13 think -- from the road I don't know if it said "of
- 14 Delaware" on the edge of it. I don't know for
- 15 sure on that.
- 16 Q. And after that, did you visit the
- 17 store?
- 18 A. 2003. My mom.
- 19 Q. And after that?

ws081705 (2).ASC

- 20 A. No.
- 21 Q. So you have known that he has been
- 22 running a jewelry store under the mark Van Scoy
- 23 Diamond Mine since 1996?
- 24 A. '6, yes.

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

119

- 1 Q. And you have owned the
- 2 registration -- registrations, pardon me, for the
- 3 mark Van Scoy Diamond Mine since emergence from
- 4 the bankruptcy; correct?
- 5 A. Correct.
- 6 Q. Which was in 2001?
- 7 A. Yep.
- 8 Q. January 2001?
- 9 A. Yes, I believe January.
- 10 Q. So you had the right to sue
- 11 commencing that day; correct?
- 12 A. True. Probably, yes. Yep.
- 13 Q. Why did you wait --
- 14 MR. MICHAEL F. PETOCK: Objection as
- 15 to what -- what his legal rights were.
- 16 BY MR. QUINN:
- 17 Q. Well, you owned the mark as of that
- 18 day; correct?
- 19 A. Yes.
- 20 Q. Why did you wait until November of

ws081705 (2).ASC
21 ninety -- of 2004 to give notice to Kurt Van Scoy
22 regarding use of the mark Van Scoy Diamond Mine?
23 A. I had been telling him, telling him,
24 telling him, telling him. Then he opens up the

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

120

1 Internet website, which then comes up into my
2 area. People can go on, click. He can ship them
3 merchandise. Now he's interfering with my
4 business.

5 Q. Do you have any documents evidencing
6 you telling Kurt van Scoy that he could not use
7 the mark Van Scoy Diamond Mine?

8 A. No, no documents. Just phone
9 conversations.

10 Q. Do you have any records of those
11 phone conversations?

12 A. Probably. Or -- or when he called
13 me, something with my parents. Like I said, they
14 flared up with -- 90 percent of the phone
15 conversations or because it ended up with me
16 talking about it again. He admitted that.

17 Q. Isn't it true that you changed the
18 name on the outside of the Mundy Street store at
19 one point?

20 MR. MICHAEL F. PETOCK: I object to
21 the way this deposition is being taken.

ws081705 (2).ASC

7 Q. Mr. Van Scoy, who is Mark Mauer?
8 A. He was an owner of one of the
9 licenses down in Allentown area.
10 Q. Do you know him personally?
11 A. God, I don't -- I used to know him
12 when I was younger when I went with my dad to the
13 stores, when he went around.
14 Q. would you recognize him if he walked
15 in this door?
16 A. I don't know. People change. So I
17 don't know for sure. I think, you know. Facial.
18 Maybe. I don't know for sure.
19 MR. MICHAEL F. PETOCK: I'll
20 undesignate this as not -- designate as not
21 being confidential now.
22 BY MR. QUINN:
23 Q. When was the last time you spoke
24 with Mark Mauer?

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

137

1 A. Probably when my dad was running the
2 stores with him.
3 Q. So prior to --
4 A. 1994.
5 Q. -- 1999?
6 A. Prior to 1994. Yes, '99.
7 Q. Prior to 1994?

Page 132

ws081705 (2).ASC

- 8 A. Yes.
- 9 Q. Do you know what Mark Mauer's
10 occupation is?
- 11 A. No.
- 12 Q. Do you have any business
13 relationship with him now?
- 14 A. No.
- 15 Q. Do you know whether your lawyers
16 have talked with him?
- 17 A. I don't know for sure.
- 18 Q. Do you have any knowledge about his
19 use or nonuse of the mark Van Scoy Diamond Mine?
- 20 A. No, not that I know of.
- 21 Q. Who is John Sulik?
- 22 A. Don't know. Mark and John. Maybe
23 that was John's last name. I don't know for sure.
- 24 Q. You don't know.

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

138

- 1 A. No.
- 2 Q. I represent to you that John and
3 Mark at one time were partners. Does that --
- 4 A. Yes. Okay.
- 5 Q. -- refresh your recollection?
- 6 A. Then it is, yes.
- 7 Q. Do you know John Sulik?
- 8 A. I've met them the same time as Mark.

Page 133

ws081705 (2).ASC

- 9 Q. Have you seen him since?
- 10 A. No.
- 11 Q. Spoke with him?
- 12 A. No.
- 13 Q. Communicated in any way with him?
- 14 A. No.
- 15 Q. Do you know what he does now?
- 16 A. One of them -- I think they sold out
- 17 one to the other in the jewelry business, and
- 18 that's all I -- that's all I know on that.
- 19 Q. Do you have any knowledge about his
- 20 use or nonuse of the mark Van Scoy Diamond Mine?
- 21 A. No, not offhand.
- 22 Q. Who is Lou Hill?
- 23 A. He also owned a jewelry store.
- 24 Q. Where?

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

139

- 1 A. I think the Reading area.
- 2 Q. Was it a store franchised by your
- 3 dad?
- 4 A. Yes. Or at least licensed name,
- 5 yes.
- 6 Q. When was the last time you spoke
- 7 with Lou Hill?
- 8 A. Probably around the same time.
- 9 Q. Have you had any communications with

ws081705 (2).ASC

10 him since?
11 A. No.
12 Q. Would you know him if he walked in
13 that door?
14 A. Same thing. I think. I don't know
15 for sure.
16 Q. Do you have any business
17 relationship with him now?
18 A. No.
19 Q. Do you have any knowledge about his
20 use or nonuse of the mark Van Scoy Diamond Mine?
21 A. Not exact, no.
22 Q. Not exact? Do you have any belief,
23 any understanding?
24 A. Again, it was -- there were several

ESQUIRE DEPOSITION SERVICES

WAYNE VAN SCOY - 8/17/05

140

1 owners down there and I don't know exactly who
2 changed hands and stuff like that or when they
3 were bought out from each other and stuff.
4 Q. Who is Bob Cook?
5 A. He runs a jewelry store down in
6 North Carolina.
7 Q. Under what name does he run that
8 store?
9 A. I don't -- I don't know for sure on
10 that. I think it -- I think it's Van Scoy

Page 135